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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/690,512	10/17/2000	Eric C. Hannah	INTL-0482-US (P10030)	3230
7590	12/15/2003		EXAMINER	
Timothy N Trop TROP PRUNER & HU PC 8554 Katy Freeway Ste 100 Houston, TX 77024			GRAVINI, STEPHEN MICHAEL	
			ART UNIT	PAPER NUMBER
			3622	

DATE MAILED: 12/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/690,512	HANNAH ET AL.
Examiner	Art Unit	
Stephen M Gravini	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 23 October 2003.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-7, 9, 11-17, 19 and 21-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-7, 9, 11-17, 19, 21-30 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### Attachment(s)

- |                                                                                                |                                                                              |
|------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                               | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)           | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____ .                                   |

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## **DETAILED ACTION**

### ***Preliminary Matter***

As a preliminary matter, the prior Office action contained an error in rejecting the claims. Under the anticipatory 35 USC 102 claim rejection section, claims 1-26 were rejected under the prior art. However on appeal, the application of record is not clear, that not all of those claims were pending, and did not clearly demonstrate examination for added claims. Therefore in order to clarify the rejection, that Office action has been vacated and this new Office action serves to replace the error made. The rejection below substantially repeats the rejection earlier made, but adds more clarification with respect to the non-statutory subject matter rejection and corrects the error earlier made.

### ***Claim Rejections - 35 USC 101***

As an initial matter, the United States Constitution under Art. I, §8, cl. 8 gave Congress the power to "[p]romote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries". In carrying out this power, Congress authorized under 35 U.S.C. §101 a grant of a patent to "[w]hoever invents or discovers any new and useful process, machine, manufacture, or composition or matter, or any new and useful improvement thereof." Therefore, a fundamental premise is that a patent is a statutorily created

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vehicle for Congress to confer an exclusive right to the inventors for "inventions" that promote the progress of "science and the useful arts". The phrase "technological arts" has been created and used by the courts to offer another view of the term "useful arts". See *In re Musgrave*, 167 USPQ (BNA) 280 (CCPA 1970). Hence, the first test of whether an invention is eligible for a patent is to determine if the invention is within the "technological arts".

Further, despite the express language of §101, several judicially created exceptions have been established to exclude certain subject matter as being patentable subject matter covered by §101. These exceptions include "laws of nature", "natural phenomena", and "abstract ideas". See *Diamond v. Diehr*, 450, U.S. 175, 185, 209 USPQ (BNA) 1, 7 (1981). However, courts have found that even if an invention incorporates abstract ideas, such as mathematical algorithms, the invention may nevertheless be statutory subject matter if the invention as a whole produces a "useful, concrete, and tangible result." See *State Street Bank & Trust Co. v. Signature Financial Group, Inc.* 149 F.3d 1368, 1973, 47 USPQ2d (BNA) 1596 (Fed. Cir. 1998). Together, the "technological arts" and "useful, concrete, and tangible result" judicial review standard, result in a comprehensive examination standard wherein the "technological arts" is one element and the "useful, concrete, and tangible result" is another complementary element.

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This comprehensive examination standard was evident when the Court of Customs and Patent Appeals (CCPA) decided an appeal from the Board of Patent Appeals and Interferences (BPAI). See *In re Toma*, 197 USPQ (BNA) 852 (CCPA 1978). In *Toma*, the court held that the recited mathematical algorithm did not render the claim as a whole non-statutory using the Freeman-Walter-Abele test as applied to *Gottschalk v. Benson*, 409 U.S. 63, 175 USPQ (BNA) 673 (1972). Additionally, the court decided separately on the issue of the "technological arts". The court developed a "technological arts" analysis:

The "technological" or "useful" arts inquiry must focus on whether the claimed subject matter...is statutory, not on whether the product of the claimed subject matter...is statutory, not on whether the prior art which the claimed subject matter purports to replace...is statutory, and not on whether the claimed subject matter is presently perceived to be an improvement over the prior art, e.g., whether it "enhances" the operation of a machine. *In re Toma* at 857.

In *Toma*, the claimed invention was a computer program for translating a source human language (e.g., Russian) into a target human language (e.g., English). The court found that the claimed computer implemented process was within the "technological art" because the claimed invention was an operation being performed by a computer within a computer.

The decision in *State Street Bank & Trust Co. v. Signature Financial Group, Inc.* never addressed this prong of the test. In *State Street Bank & Trust Co.*, the court found that the "mathematical exception" using the Freeman-Walter-Abele test has little,

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if any, application to determining the presence of statutory subject matter but rather, statutory subject matter should be based on whether the operation produces a "useful, concrete and tangible result". See *State Street Bank & Trust Co.* at 1374. Furthermore, the court found that there was no "business method exception" since the court decisions that purported to create such exceptions were based on novelty or lack of enablement issues and not on statutory grounds. Therefore, the court held that "[w]hether the patent's claims are too broad to be patentable is not to be judged under §101, but rather under §§102, 103 and 112." See *State Street Bank & Trust Co.* at 1377. Both of these analysis goes towards whether the claimed invention is non-statutory because of the presence of an abstract idea. Indeed, *State Street* abolished the Freeman-Walter-Abele test used in *Toma*. However, *State Street* never addressed the second part of the analysis, i.e., the "technological arts" test established in *Toma* because the invention in *State Street* (i.e., a computerized system for determining the year-end income, expense, and capital gain or loss for the portfolio) was already determined to be within the technological arts under the *Toma* test. The Board of Patent Appeals and Interferences (BPAI) have recently acknowledged this dichotomy in affirming a §101 rejection finding the claimed invention to be non-statutory. See *Ex parte Bowman*, 61 USPQ2d (BNA) 1669 (BPAI 2001).

Claims 1-7, 9, 11-17, 19, and 27-30 are rejected under 35 U.S.C. 101 because the claimed method does not recite a useful, concrete and tangible result under *In re*

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*Alappat*, 31 USPQ2d 1545 (Fed. Cir. 1994) and *State Street Bank & Trust Co. v. Signature Financial Group Inc.*, 47 USPQ2d 1596 (Fed Cir. 1998). The independently claimed invention is an abstract idea which can be performed without interaction of a physical structure. The independently claimed steps of monitoring and accruing does not require structural interaction or mechanical intervention such that the invention falls within the technological arts permitting statutory patent protection. Those steps can be performed by personal skills (i.e. watching and remembering) such that the claimed steps can be performed without a physical structure or mechanical object. Because the independently claimed invention is directed to an abstract idea and does not require structural interaction or mechanical intervention, it does not produce a useful, concrete and tangible result, is not permitted under 35 USC 101 as being related to non-statutory subject matter. Furthermore each of the claimed steps can be completely performed by a human, which further illustrate that the independently claimed invention is directed to an abstract idea and does not require structural interaction or mechanical intervention. However in order to examine the claimed invention in light of the prior art, further rejections will be made on the assumption that those claims are statutorily permitted.

***Claim Rejections - 35 USC 112***

Claims 1-7, 9, 11-17, 19, and 21-30 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in

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such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. In this case, the independently claimed method or article including the steps of monitoring, accruing including a processor-based device with a media player and watermark detector, and associating or controlling is not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The independently claimed invention specifically reciting those steps is considered non-enabling because the specification does not provide a concrete example or illustrating of those claimed steps. The specification discusses this claimed concept but does not enable one skilled in the art how the steps of monitoring and accruing including a processor-based device with a media player and watermark detector is enabled, based on the specification, such that one would know how to make and/or use the invention. However in order to examine the claimed invention in light of the prior art, further rejections will be made on the assumption that those claims are reasonably conveyed to those skilled in the art.

Claims 1-7, 9, 11-17, 19, and 21-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The independently claimed method and system including the steps monitoring and accruing including a processor-

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based device with a media player and watermark detector fails to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The independently claimed steps of specifically reciting those features are considered indefinite because the specification does not provide an antecedent basis of those steps. The specification discusses this claimed concept but the claims do not particularly point out and distinctly claim the subject matter which applicant regards as the invention because it is considered that, as discussed in the specification in light of the claims, the claims are indefinite. The independently claimed recitation "said watermark detects watermarks" is considered indefinite because it is unclear how a symbol detects a plurality of itself. However in order to examine the claimed invention in light of the prior art, further rejections will be made on the assumption that those claims are not indefinite.

#### ***Claim Rejections - 35 USC 102***

Claims 1-7, 9, 11-17, 19, and 21-30 are rejected under 35 U.S.C. 102(a) as being anticipated by applicants' specification to each of the independently claimed inventions. Since the specification background is customarily used as an introduction to admitted prior art while the claims introduce improvements to the admitted prior art, the independently claimed invention mirrors the specification in subject matter and

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functionality. In this case the claims contain the same subject matter as the specification background and since the background is normally admitted prior art, the claims and claims depending upon them are considered anticipated by the specification admitted prior art. Claims 1-7, 9, 11-17, 19, and 21-30 are also rejected under 35 U.S.C. 102(b) as being clearly anticipated by Filepp et al. (US 5,347,642), Hannah (US 5,550,595 or US 5,568,192), Fite et al. (US 5,557,721), Graber et al. (US 5,717,860), von Kohorn (US 5,916,024), or Merriman et al. (US 5,948,061), and are rejected under 35 U.S.C. 102(e) as being clearly anticipated by d'Eon et al. (US 6,006,197), Goodman et al. (US 6,173,271), Rhoads (US 6,311,214 or US 6,442,285), or Zhang et al. (US 6,324,420).

#### ***Claim Rejections - 35 USC 103***

Claims 1-7, 9, 11-17, 19, and 21-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over an obvious variation of examiner's personal experience of a method and system of medium storage instructions as provided by television viewing. The claimed advertisement, watermark, and credit are considered non-functional descriptive material which will be discussed infra. The claimed accruing, processor-based device, and media player are considered automation steps to an old and well known manual practice which will be discussed infra. Since at least 1990, examiner has experience

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with the claimed invention as a television viewer which performs a method and system of medium storage instructions. The claimed method and system comprising:

monitoring watermark information included with an advertisement information; accruing data after determining that the advertisement was played; and associating an indication that advertisement information was played with an identifier data for a particular user; or

monitor a watermark included with an advertisement; accrue data after determining that the advertisement was played; and associate an indication that an advertisement was played with an identifier for a particular user; or

an automated processor-based device;

an automated media player coupled to said device;

a watermark information detector coupled to said automated player, said symbol detects information and controls operation of said player in response to detection of play of information. Examiner also has personal experience with the claimed credit reward, successive accumulation, recorded information at predetermined speeds including intended play time, particular user identifiers, content access, and subsequent replay.

The claimed monitoring a play of information or monitor play of information is considered equivalent to examiner viewing information including advertisements on a television monitor. The claimed accruing data after determining that the information

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was played or accrue data after determining that the information was played is considered equivalent to the examiner television viewer remembering the content of televised information, such as accruing credit to McDonalds if Ronald McDonald data were televised. The claimed automated device is considered equivalent to a television remote used to vary television information. The claimed automated player coupled to said device is considered equivalent to the television electronically coupled to the remote. The claimed symbol detector coupled to said automated player, said symbol detects information and controls operation of said player in response to detection of play of information is considered equivalent a televised tone or televised announcement in regular programming that a break will occur in the regular programming for either station identification or advertisement commercials. The claimed credit reward, successive accumulation, recorded information at predetermined speeds including intended play time, particular user identifiers, content access, and subsequent replay are terms common in the field of television viewing. The claimed invention has been performed by the examiner long before the filing of the present invention except for the specifically recited advertisement, watermark, and credit. Those recitations are considered non-functional descriptive language and are not given patentable weight. It would have been obvious to those skilled in the art of a method consumer advertising to use those recitations to seek patent protection. The non-functional descriptive language including the terms advertisement, watermark, and credit are considered merely information,

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symbols, or data items necessary to provide an accounting for establishing and maintaining an information basis in the field of endeavor claimed by the applicants. This non-functional descriptive language difference is only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The claimed advertisement, watermark, and credit steps would be performed the same regardless of the data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 32 F. 3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to claim information, symbols, or data items, particularly advertisement, watermark, and credit, having any type of content, because such data does not functionally relate to the steps in the method and system claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention. Also, the claimed invention contains automated features, such as accruing, processor-based device, and media player, which are obvious variations to the examiner's experience that is so old and well known that the examiner will use Official notice to obviate that claimed subject matter. The claimed invention, recited by the applicant, has been provided examiner personal experience long before the filing of applicant's invention. Examiner notes that it is old and well known to those skilled in the art of a method and system of medium storage instructions, that it would have been obvious to claim the invention as recited by the applicant, in order to overcome the

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explicit teachings of examiner's personal experience discussed *supra*. It would have been obvious to one skilled in the art to provide the automated claimed method and system since those features, particularly accruing, processor-based device, and media player, are merely automated features of a concept that is old and well known. Please see *In re Venner*, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958) in which the court held that broadly providing an automatic or mechanical means to replace a manual activity which accomplished the same result is not sufficient to distinguish over the prior art. The motivation to combine applicants claimed invention with the services offered by examiner's experience with television viewing is to allow greater consumer targeting capabilities through electronic mediums, while transferring information, which clearly shows the obviousness of the claimed invention.

***Double Patenting***

Claims 1-7, 9, 11-17, 19, and 21-30 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-29 of copending Application No. 09/896,772. Although the conflicting claims are not identical, they are not patentably distinct from each other because the present application contains the an obvious variation recitation in claim language as applied to the copending application.

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This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Response to Arguments***

Applicant's arguments filed June 18, 2003 have been fully considered but they are not persuasive.

*non-statutory subject matter*

Applicants argue the amended claims to include the recitation "watermark" overcomes the non-statutory subject matter rejection because that recitation may be designed to be undetectable to users. Claim interpretation under current Office practice does not permit patentability of claims that may be broadly construed. In this case, the examiner broadly construes a watermark to encompass any mark included with an advertisement, under current permitted Office practice of claim interpretation. The possibility that a watermark may be of a certain design does not impart patentability because the claimed watermark may be broadly interpreted to include non-statutory subject matter discussed above in the rejection.

*enablement and indefiniteness*

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The argument that a skilled artisan would know how to use the claimed invention without undue experimentation is merely an assertion of patentability without convincing the Office of patentability.

*anticipation*

Applicants argue the claimed watermark or identifier distinguishes the invention over the anticipatory prior art but under current Office practice a watermark may be any indicia that can identify an advertisement. A watermark, identifier, or any advertisement indicia clearly anticipates the claimed invention by any one of the prior art references.

*obviousness*

An examiner declaration has been provided per applicants' request such that a prior art reference is not necessary.

*double patenting*

Applicants assert the co-pending application is unrelated, but the differences in the co-pending application and the present application are merely non-functional descriptive material. Both applications perform substantially the same function using substantially the same means or steps with substantially the same result.

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***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Steve Gravini whose telephone number is (703) 308-7570 and electronic transmission / e-mail address is steve.gravini@uspto.gov. Examiner can normally be contacted Monday through Friday from 6:00 a.m. to 3:30 p.m. **If applicants choose to send information by e-mail, please be aware that confidentiality of the electronically transmitted message cannot be assured.**

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Please see MPEP 502.02. Information may be sent to the Office by facsimile transmission. The Official Fax Numbers for TC-3600 are:

**After-final                    (703) 872-9327**

**Official                      (703) 872-9306**

**Non-Official/Draft (703) 872-9325**

*Steve Gravini*  
**STEPHEN GRAVINI**

**PRIMARY EXAMINER**

smg

December 12, 2003

**EXAMINER AFFIDAVIT SUPPORTING OBVIOUSNESS REJECTION**

Claims 1-7, 9, 11-17, 19, and 21-30 are an obvious variation of examiner's personal experience of a method and system of medium storage instructions as provided by television viewing. The claimed advertisement, watermark, and credit are considered non-functional descriptive material which will be discussed infra. The claimed accruing, processor-based device, and media player are considered automation steps to an old and well known manual practice which will be discussed infra. Since at least 1990, examiner has experience with the claimed invention as a television viewer which performs a method and system of medium storage instructions.

The claimed method and system comprising:

monitoring watermark information included with an advertisement information; accruing data after determining that the advertisement was played; and associating an indication that advertisement information was played with an identifier data for a particular user; or

monitor a watermark included with an advertisement; accrue data after determining that the advertisement was played; and associate an indication that an advertisement was played with an identifier for a particular user; or

an automated processor-based device;

an automated media player coupled to said device;

a watermark information detector coupled to said automated player, said symbol detects information and controls operation of said player in response to detection of play

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of information. Examiner also has personal experience with the claimed credit reward, successive accumulation, recorded information at predetermined speeds including intended play time, particular user identifiers, content access, and subsequent replay. The claimed monitoring a play of information or monitor play of information is considered equivalent to examiner viewing information including advertisements on a television monitor. The claimed accruing data after determining that the information was played or accrue data after determining that the information was played is considered equivalent to the examiner television viewer remembering the content of televised information, such as accruing credit to McDonalds if Ronald McDonald data were televised. The claimed automated device is considered equivalent to a television remote used to vary television information. The claimed automated player coupled to said device is considered equivalent to the television electronically coupled to the remote. The claimed symbol detector coupled to said automated player, said symbol detects information and controls operation of said player in response to detection of play of information is considered equivalent a televised tone or televised announcement in regular programming that a break will occur in the regular programming for either station identification or advertisement commercials. The claimed credit reward, successive accumulation, recorded information at predetermined speeds including intended play time, particular user identifiers, content access, and subsequent replay are terms common in the field of television viewing. The claimed invention has been performed by the examiner long before the filing of the present invention except for the specifically recited advertisement, watermark, and credit. Those recitations are considered non-

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functional descriptive language and are not given patentable weight. It would have been obvious to those skilled in the art of a method consumer advertising to use those recitations to seek patent protection. The non-functional descriptive language including the terms advertisement, watermark, and credit are considered merely information, symbols, or data items necessary to provide an accounting for establishing and maintaining an information basis in the field of endeavor claimed by the applicants. This non-functional descriptive language difference is only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The claimed advertisement, watermark, and credit steps would be performed the same regardless of the data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability. Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to claim information, symbols, or data items, particularly advertisement, watermark, and credit, having any type of content, because such data does not functionally relate to the steps in the method and system claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention. Also, the claimed invention contains automated features, such as accruing, processor-based device, and media player, which are obvious variations to the examiner's experience that is so old and well known that the examiner will use Official notice to obviate that claimed subject matter. The claimed invention, recited by the applicant, has been provided examiner personal experience long before the filing of applicant's invention. Examiner notes that it is old and well known to those skilled in the art of a method and system of medium storage

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instructions, that it would have been obvious to claim the invention as recited by the applicant, in order to overcome the explicit teachings of examiner's personal experience discussed supra. It would have been obvious to one skilled in the art to provide the automated claimed method and system since those features, particularly accruing, processor-based device, and media player, are merely automated features of a concept that is old and well known. The motivation to combine applicants claimed invention with the services offered by examiner's experience with television viewing is to allow greater consumer targeting capabilities through electronic mediums, while transferring information, which clearly shows the obviousness of the claimed invention.

I hereby declare that all statements made under this declaration of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under 18 USC 1001 and that such will false statements may jeopardize the validity of the application or any patent issued thereon.

*Steve Gann*